

Art Unit: 1638

Attachment to Advisory Action

Item 4. Claims 16, 21, 26 and 140 all recite changes which were previously done by the amendment of 17 April 2008. Only claim 16 has a new change, namely the deletion of “or 12”, although the Examiner does not understand the benefit of this change.

Claims 21, 26 and 140 should be submitted with the status identifier “previously presented”, and with no underlines or underscores. Claim 16 should be resubmitted as “currently amended” and reflect only the deletion of "or 12", if still desired.

Item 11.

112 rejection re “oilseed crops”: It’s unclear whether blackcurrant is considered an oilseed crop, since its definition states that it is used as a fruit or as a source of fruit juice. Only borage is explicitly defined as an “oilseed crop”. Table 1.1 of Hatje does not list either borage or blackcurrant. Thus borage is the only example of a GLA-producing oilseed plant.

112 rejection re gene/enzyme type required: Table 1 of Robert review supports Examiner position because at least 2 desaturase enzymes and at least 1 elongase enzyme from the corresponding pathway were utilized by each author.

103 rejection: Qi et al (published June 2004, before the August 2004 publication of Applicant’s PCT application) teach successful production of 3% EPA in plants transformed with only the genes encoding delta-8 elongase, delta-8 desaturase, and delta-5 desaturase. Abbadi et al (received July 2004, before Applicant’s publication of PCT) teach successful production of 1% EPA in plants transformed with only the genes

Art Unit: 1638

encoding delta-6 desaturase, delta- 5 desaturase, and delta-6 elongase. Thus, at least two groups obtained successful production of EPA within the instantly claimed range, in the absence of an acyltransferase transgene, without prior knowledge of Applicant's work. Accordingly, a reasonable expectation of success occurred at the time of the invention.

/David T Fox/

Primary Examiner, Art Unit 1638

October 27, 2008